



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I**

CP (IB) NO. 277 of 2024

Under Section 10 of the Insolvency and
Bankruptcy Code, 2016

In the matter of

Orchid Housinginfra LLP

LLPIN: AAB-5824

Having its Registered Office at -

5, Floor - I, Plot No.7, Sharda Sadan, Swami
Gyanjivandas Marg, Dadar Rly. Stn. Dadar
(East), Mumbai City - 400014, Maharashtra,
India

... Corporate Applicant

Order Delivered On : 10.07.2024

Coram:

Hon'ble Member (Judicial) : Sh. Justice V. G. Bisht (Retd.)

Hon'ble Member (Technical): Sh. Prabhat Kumar

Appearances:

For the Corporate Applicant : Geeta Toraskar, Advocate



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ORDER

Per: Justice V. G. Bisht (Retd.), Member (Judicial)

Brief Facts:

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“Code”) by **Orchid Housinginfra LLP** (hereinafter referred to as the “Corporate Applicant”), seeking to initiate its own Corporate Insolvency Resolution Process (“CIRP”). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to which it is not in a position to repay the debts due to its creditors.
2. The Corporate Applicant is a Limited Liability Partnership firm registered under the Limited Liability Partnership Act, 2008 incorporated on 13.06.2013 having LLPIN: AAB-5824 and having its registered office address at 5, Floor - I, Plot No.7, Sharda Sadan, Swami Gyanjivandas Marg, Dadar Rly. Stn. Dadar (East), Mumbai City - 400014, Maharashtra, India. Therefore, this Bench has jurisdiction to entertain and decide the Petition. The total obligation of contribution is Rs.1,00,000/-. The Corporate Applicant is engaged in the business of developing the real estate projects, inter-alia including Commercial and Residential properties in the suburbs of the Mumbai.

Submissions of the Applicant:

3. The Corporate Applicant has developed a Real Estate Project named Sunshine Swapna Nagari located at Plot Bearing / CTS / Survey / Final Plot No: 71 A, 2A/1 Part at Badlapur (MCI), Ambarnath, Thane - 421503, Maharashtra.



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4. That for the said Real Estate Project, the Corporate Applicant availed the Term Loan Facilities of INR 20 Crores from the Axis Finance Limited vide Sanction Letter dated 29.03.2017 and Facility Agreement dated 29.03.2017 against which the Corporate Applicant has kept unsold flats receivables from sold flats in the Project of Swapna Nagari as primary security.
5. The Corporate Applicant has received first approval of the project and layout in July 2015 for Stilt + 3 Upper Floor and at the same time there were certain changes proposed in the Development Rules of Thane District which were pending for implementation due to jurisdictional issues. To avoid the uncertainty, the Corporate Applicant proposed this project under gaathan (within 200 meters of village) and got the approval of the plan and layout to carry out the work at the project. Further in February 2017 the clarification with regard to the jurisdiction was issued, basis which the Corporate Applicant applied for the revised plan of Ground + 4 upper floor at Asst. Director of Town Planning Thane (ADTP) and could not commence construction until receipt of the approval under revised Development Rules. That the said approval was delayed and received only in November 2018. Accordingly, the Construction of Ground & 4th Floor commenced post approval from ADTP.
6. The Corporate Applicant further submits that the said project came to standstill due to the delayed approval for Ground and 4th Floor of the project which was received on 28.11.2018. Thereafter, the Corporate Applicant tried selling the unsold flats in its due course of business however, due to global slowdown in real-estate industry coupled with the sudden outburst of Covid - 19 pandemics, the business of the Corporate Applicant was



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severely impacted leading to huge financial loss and cash crunch in the business operations of the Corporate Applicant.

7. The Corporate Applicant further submits that after the Covid -19 pandemic, many corrections / amendments were made in the Development Rules, based on which the authority imposed additional premium due to deficiency in the layout as per present norms and accordingly the Corporate Applicant carried out the required changes in plan and paid all the required premium which along with other factors caused project cost overrun. Further even after constrains of Covid -19 and market difficulties, the Corporate Applicant was able to complete the project by 2021 and the completion certificate has been issued by the Local Panchayat on 22.04.2021. Thereafter, the Occupation Certificate was received on 29.12.2023.
8. The Corporate Applicant further submits that the sale of the Units in the said Project was also adversely affected due to the downsizing by the various NBFC/Banks of Home Loan facility to be availed by the Unit Purchasers in the project and due to loss of jobs of such potential/existing unit purchasers during the Covid - 19 pandemics. Therefore, due to the downfall in the economy and due to adverse conditions, the Corporate Applicant defaulted in making the repayment of the loan amount availed from the Axis Finance Limited and the loan account was classified as a Non Performing Asset (NPA) on 25.03.2021. The Corporate Applicant received Recall Notice dated 19.10.2021 under 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 from the Axis Finance Limited to make the payment of outstanding dues of INR 13,72,95,292 as on 30 September 2021.



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9. The Corporate Applicant submits that apart from other Operational Creditor dues and Financial Creditor dues, there is significant contingent liability towards GST demand and due to the outstanding dues of the GST which is as follows, show cause notices were issued by the GST department:

Year	Principle	Interest	Penalty	Total
FY 2017-18	79,85,838	63,84,884	63,84,884	1,51,68,832
FY 2018-19	2,14,32,785	2,31,43,882	2,31,43,882	4,67,64,505
FY 2019-20	97,65,039	1,05,98,321	10,41,815	2,14,05,175

10. The Corporate Applicant desperately attempted to raise funds to the extent possible by collecting the outstanding amount due from Allottees and selling the unsold flats of the projects but was not entirely successful, due to which the Corporate Applicant was unable to meet its expenses and payoff its liabilities.
11. A Term Loan facility of a sum of INR 20,00,00,000 was sanctioned by the Axis Finance Limited vide sanction letter dated 29.03.2017. The Corporate Applicant committed default in making repayment of the loan amount availed from the Axis Finance Limited and the said loan account was classified as a Non-Performing Asset (NPA) on 25.03.2021. Thereafter, the Corporate Applicant has received Recall Notice dated 19.10.2021 under section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002



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from the Axis Finance Limited to make the Payment of outstanding dues of INR 13,72,95,292/- as on 30.09.2021. The Corporate Applicant has placed on record NPA Letter dated 27.04.2021 and Recall Notice dated 19.10.2021.

12. The Corporate Applicant submits that the total debt due to the Secured Financial Creditors is as follows:

Name	Loan Amount	Outstanding amount as on 09.02.2024
Term Loan of Axis Finance Limited (Principal Amount)	20,00,00,000	9,64,58,757
Accrued Interest as per audited financials	-	1,57,40,693
Total		11,21,99,450

13. The Corporate Applicant submits that the total debt due to the Secured Financial Creditors is as follows:

- i. Unsecured Loan from other parties: INR 1,04,50,000
- ii. Flats Cancelled - Home Buyers (other creditors): INR 62,21,362

14. The Corporate Applicant has further submitted the list of Operational Creditors as follows:

Particulars	Amount
Retention from the Contractors	43,24,369
Sundry Creditors - Contractors	1,15,79,061
Sundry Creditors – Expenses	90,173
Sundry Creditors – Prof Fees	106.04
Sundry Creditors – Purchases	10,01,744



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Swapna Nagari – Imprest Account	43,789
Total Operational Creditors	1,70,39,242.04

15. The Corporate Applicant has suggested the name of Chetna Paresh Sutaria having Registration no. IBBI/IPA-001/IP-P00395/2017-18/10713 for appointment as the Interim Resolution Professional (“**IRP**”). The proposed IRP has also submitted her Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against her.
16. This application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.
17. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Applicant.

Order:

18. The above CP(IB) No. 277 of 2024 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Orchid Housinginfra LLP.



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19. Chetna Paresh Sutaria having Registration No. IBBI/IPA-001/IP-P00395/2017-18/10713, having registered address at C-23, Satyam Shopping Centre, MG Road, Ghatkopar East, Mumbai - 400077 Email Id: chetna@sutariaassociates.com, is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
20. There shall be a moratorium under Section 14 of the IBC, in regard to the following:
- i. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.



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21. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
22. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
23. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
24. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
25. The Corporate Applicant shall deposit a sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) till the formation of



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Committee of Creditors plus out of pocket expenses with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

26. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
27. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within **seven days** from the date of receipt of a copy of this order.
28. Ordered accordingly.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

/MK/

Sd/-

JUSTICE V. G. BISHT
MEMBER (JUDICIAL)